

**ASSEMBLY BILL**

**No. 1770**

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**Introduced by Assembly Member Kuykendall**

February 5, 1998

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An act to amend Section 10177 of the Business and Professions Code, relating to real estate licenses.

LEGISLATIVE COUNSEL'S DIGEST

AB 1770, as introduced, Kuykendall. Real estate licensure: prohibited acts.

The Real Estate Law specifies the grounds for denial of, or suspension or revocation of, a real estate license by the Real Estate Commissioner. Existing law provides that these grounds apply to a corporation if an officer, director, or person owning or controlling 10% or more of the corporation's stock has done specified prohibited acts, except that a real estate license held by a corporation shall not be denied or suspended by the commissioner if an offending officer, director or shareholder has been completely disassociated from any affiliation or ownership in the corporation.

This bill would instead provide that the commissioner may not deny, suspend, or revoke a real estate license held by a corporation if the corporation or persons acting on behalf of the corporation have not done specified prohibited acts, provided that any offending officer, director, or shareholder, who has done any of those acts individually and not on behalf of the corporation, has been completely disassociated from any affiliation or ownership in the corporation.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 10177 of the Business and  
2 Professions Code is amended to read:  
3 10177. The commissioner may suspend or revoke the  
4 license of ~~any~~ a real estate licensee, or may deny the  
5 issuance of a license to an applicant, who has done *any of*  
6 *the following*, or may suspend or revoke the license of *a*  
7 *corporation*, or deny the issuance of a license to, ~~a~~  
8 ~~corporate applicant~~ *a corporation*, if an officer, director,  
9 or person owning or controlling 10 percent or more of the  
10 corporation's stock has done, any of the following:  
11 (a) Procured, or attempted to procure, a real estate  
12 license or license renewal, for himself or herself or any  
13 salesperson, by fraud, misrepresentation or deceit, or by  
14 making any material misstatement of fact in an  
15 application for a real estate license, license renewal or  
16 reinstatement.  
17 (b) Entered a plea of guilty or nolo contendere to, or  
18 been found guilty of, or been convicted of, a felony or a  
19 crime involving moral turpitude, and the time for appeal  
20 has elapsed or the judgment of conviction has been  
21 affirmed on appeal, irrespective of an order granting  
22 probation following that conviction, suspending the  
23 imposition of sentence, or of a subsequent order under  
24 Section 1203.4 of the Penal Code allowing that licensee to  
25 withdraw his or her plea of guilty and to enter a plea of  
26 not guilty, or dismissing the accusation or information.  
27 (c) Knowingly authorized, directed, connived at, or  
28 aided in, the publication, advertisement, distribution, or  
29 circulation of any material false statement or  
30 representation concerning his or her business, or any  
31 business opportunity or any land or subdivision (as  
32 defined in Chapter 1 (commencing with Section 11000)  
33 of Part 2) offered for sale.  
34 (d) Willfully disregarded or violated the Real Estate  
35 Law (Part 1 (commencing with Section 10000)) or

1 Chapter 1 (commencing with Section 11000) of Part 2 or  
2 the rules and regulations of the commissioner for the  
3 administration and enforcement of the Real Estate Law  
4 and Chapter 1 (commencing with Section 11000) of Part  
5 2.

6 (e) Willfully used the term “realtor” or any trade  
7 name or insignia of membership in any real estate  
8 organization of which the licensee is not a member.

9 (f) Acted or conducted himself or herself in a manner  
10 which would have warranted the denial of his or her  
11 application for a real estate license, or has either had a  
12 license denied or a license issued by another agency of  
13 this state, another state, or the federal government,  
14 revoked or suspended for acts which if done by a real  
15 estate licensee would be grounds for the suspension or  
16 revocation of a California real estate license, if the action  
17 of denial, revocation, or suspension by the other agency  
18 or entity was taken only after giving the licensee or  
19 applicant fair notice of the charges, an opportunity for a  
20 hearing, and other due process protections comparable to  
21 the Administrative Procedure Act (Chapter 3.5  
22 (commencing with Section 11340), Chapter 4  
23 (commencing with Section 11370), and Chapter 5  
24 (commencing with Section 11500) of Part 1 of Division 3  
25 of Title 2 of the Government Code), and only upon an  
26 express finding of a violation of law by the agency or  
27 entity.

28 (g) Demonstrated negligence or incompetence in  
29 performing any act for which he or she is required to hold  
30 a license.

31 (h) As a broker licensee, failed to exercise reasonable  
32 supervision over the activities of his or her salespersons,  
33 or, as the officer designated by a corporate broker  
34 licensee, failed to exercise reasonable supervision and  
35 control of the activities of the corporation for which a real  
36 estate license is required.

37 (i) Has used his or her employment by a governmental  
38 agency in a capacity giving access to records, other than  
39 public records, in such manner as to violate the  
40 confidential nature of the records.

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in any order granting a restricted license.

(l) Solicited or induced the sale, lease, or the listing for sale or lease, of residential property on the ground, wholly or in part, of loss of value, increase in crime, or decline of the quality of the schools, due to the present or prospective entry into the neighborhood of a person or persons of another race, color, religion, ancestry, or national origin.

(m) Violated the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) or regulations of the Commissioner of Corporations pertaining thereto.

(n) Violated the Corporations Code or the regulations of the Commissioner of Corporations relating to securities as specified in Section 25206 of the Corporations Code.

(o) Failed to disclose to the buyer of real property in a transaction in which the licensee is an agent for the buyer, the nature and extent of a licensee's direct or indirect ownership interest in that real property. The direct or indirect ownership in the property by a person related to the licensee by blood or marriage, by an entity in which the licensee has an ownership interest, or by any other person with whom the licensee occupies a special relationship shall be disclosed to the buyer.

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*If a real estate broker that is a corporation has not done any of the foregoing acts, either directly or through its employees, agents, officers, directors, or persons owning or controlling 10 percent or more of the corporation's stock, the commissioner may not deny the issuance of a license application to, or suspend or revoke the license of a corporate real estate broker if the, the corporation, provided that any offending officer, director, or stockholder, who has done any of the foregoing acts individually and not on behalf of the corporation, has*

1 been completely disassociated from any affiliation or  
2 ownership in the corporation.

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